UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROGER MARX DESENBERG,   :

              Plaintiff,   :

        -against-   :

GOOGLE, INC.,   :

             Defendant.   :

- x

08 Civ. 10121 (GBD) (AJP)

ORDER

ANDREW J. PECK, United States Magistrate Judge:

      Pro se plaintiff Roger Marx Desenberg recently has filed various affidavits and motions (Dkt. Nos. 27-38.) The Court deals with them as follows:

      1.   Docket Nos. 27 and 28 are Desenberg's declarations, but they do not relate to any motion or any other issue presently before the Court. To the extent they may relate to issues that may come up at trial, they are premature. The Court will take no further action as to these declarations.

      2.   Docket No. 29, "Plaintiff's Motion for the Court to Test Web Sites, etc.," is DENIED. Once the pending motion to dismiss is decided, discovery can begin. Discovery is done by the parties. The Court does not "test" things until trial. Docket No. 30 is Desenberg's declaration explaining how to test things; it has no relevance at this stage of the case.

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3.   Docket No. 31 is entitled "Plaintiff's Motion to Grant the Desenberg Stipulation" but also is titled "Plaintiff's Motion to Remove Irreparable Harm." The motion is DENIED. In essence, Desenberg is asking to be able to "preserve the status quo" by allowing him to "run his invention" for a time to earn money to pay for his lawsuit. The motion is largely incomprehensible but in any event fails to meet the standard for a TRO or a preliminary injunction. Nor does it preserve the status quo but rather changes it. The motion is DENIED.

4.   Docket No. 32, "Plaintiff's Motion for Temporary Restraining Order to Preserve the Status Quo" is similar to Docket No. 31 and is DENIED for the same reason – among other things, it actually seeks to change the status quo, and does not show a likelihood of success on the merits or irreparable harm.

5.   Docket No. 33, "Plaintiff's Motion to Grant the Desenberg Stipulation," is DENIED as frivolous. A stipulation is a willing agreement of the parties. Here, there is no such agreement.

6.   Docket No. 34, "Plaintiff's Offer of Voluntary Enjoinment and Settlement for Damages," is similarly DENIED. A "voluntary" injunction and a settlement require both parties to agree. There is no such agreement here (and it is clear that Google will not voluntarily pay the $3 billion that Desenberg suggests as the settlement amount).

7.   Docket No. 35, "Plaintiff's Withdrawal of Motion for Preliminary Injunction" is GRANTED only to the extent of withdrawing plaintiff's prior motion for a preliminary injunction.
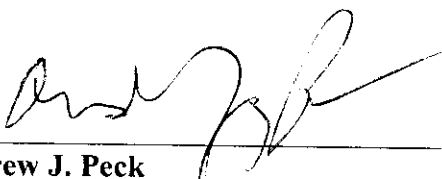
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8.   Docket Nos. 36-38 are Desenberg's declarations in support of certain of the above motions. They require no separate Court action at this time.

* * * *

The Court strongly recommends that plaintiff Desenberg obtain an attorney for this litigation. A patent case is no place for a pro se litigant. (Plaintiff may wish to dismiss this case without prejudice until such time as he can obtain counsel – see Fed. R. Civ. P. 41.)

SO ORDERED.

Dated: New York, New York
              April 28, 2009

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Andrew J. Peck
United States Magistrate Judge

Copies **by fax** to: Roger Marx Desenberg (Regular & Certified Mail)
                        Edward J. DeFranco, Esq.
                        Patrick D. Curran, Esq.
                        Charles K. Verhoeven, Esq.
                        Judge George B. Daniels

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